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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/811,906	03/19/2001	Silverio C. Vasquez	Raamot 15-9 (1501-0029)	8962

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EXAMINER	
BOUTAH, ALINA A	

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 05/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/811,906	VASQUEZ ET AL.	
	Examiner	Art Unit	
	Alina N Boutah	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 January 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) *19 and 20* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

In view of the Appeal Brief filed on January 20, 2006, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art (hereinafter referred to as AAPA) in view USPN 5,560,038 issued to Haddock, in further view of Examiner's Official Notice.

Regarding claim 1, AAPA teaches a method for communicating information between a plurality of local area network sections having different transmission speeds, the plurality of local area network sections employing a physical layer protocol in which an unsuccessful transmission is communicated to a transmission source prior to completion of the transmission, the method comprising the steps of:

a) receiving, within the physical layer protocol, a packet that is transmitted from a source terminal in a source network section having a source transmission speed to a destination terminal in a destination network section having a destination transmission speed (specification page 1, 3rd paragraph, lines 1-7 and page 2, second paragraph, lines 1-6).

However, AAPA fails to teach the destination transmission speed differing from the source transmission speed, b) determining the transmission speed for the destination terminal; and c) re-transmitting, within the physical layer protocol, the received packet to the destination network section at the destination transmission speed.

Haddock teaches the destination transmission speed differing from the source transmission speed, b) and c) in col. 3, lines 13-29; col. 3, line 65 to col. 4, line 12; col. 4, lines 43-67; col. 6, lines 14-19; col. 6, line 63 to col. 7, line 12. At the time the invention was made, one of ordinary skill in the art would have been motivated to determine the transmission speed for the destination terminal and re-transmit, within the physical layer protocol, the received packet to the destination network section at the destination transmission speed in order to interconnect heterogeneous networks that operate at different transmission speeds, therefore maximizing the throughput of the data transmission.

Although neither AAPA nor Haddock explicitly teach receiving and retransmitting data packet within the physical layer, Examiner takes Official Notice (see MPEP § 2144.03) that in a computer networking environment, this feature is well known in the art at the time the invention was made. The Applicant is entitled to traverse any/all official notice taken in this action according to MPEP § 2144.03, namely, "if applicant traverses such an assertion, the examiner should cite a reference in support of his or her position". However, MPEP § 2144.03 further states "See also In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice)." Specifically, In re Boon, 169 USPQ 231, 234 states "as we held in Ahlert, an applicant must be given the opportunity to challenge either the correctness of the fact asserted or the notoriety or repute of the reference cited in support of the assertion. We did not mean to imply by this statement that a bald challenge, with nothing more, would be all that was needed". Further note that 37 CFR § 1.671(c)(3) states "Judicial notice means official notice". Thus, a traversal by the Applicant that is merely "a bald challenge, with nothing more" will be given very little weight.

Regarding claim 2, AAPA teaches the method of claim 1, further comprising, prior to step c, determining whether the destination network section is busy prior to the re-transmitting step (Specification, page 2, 1st paragraph, lines 1-2; page 3, 1st paragraph, lines 3-6).

Regarding claim 3, AAPA teaches the method of claim 2, further comprising, after step b, determining whether the destination network section is busy prior to the re-transmitting step (Specification, page 2, 1st paragraph, lines 1-2; page 3, 1st paragraph, lines 3-6).

Regarding claim 4, AAPA teaches the method of claim 1, wherein the step c further comprises commencing re-transmission of the received packet before the source terminal completes its transmission of the packet (specification, page 3, 1st paragraph, line 3 to 2nd paragraph line 5).

Regarding claim 5, AAPA teaches the method of claim 4, further comprising delaying the re-transmission of the received packet (specification, page 3, 2nd paragraph, lines 3-5).

Regarding claim 6, AAPA fails to teach the method of claim 5, further comprising: commencing re-transmission of the received packet at a higher speed after receiving only a portion of the received packet; re-transmitting the received packet continuously at the higher speed; and completing re-transmission of the received packet after completely receiving the received packet.

Haddock teaches commencing re-transmission of the received packet at a higher speed after receiving only a portion of the received packet; re-transmitting the received packet continuously at the higher speed; and completing re-transmission of the received packet after completely receiving the received packet (col. 2, lines 9-32; col. 6, line 65 to col. 7, line 2).

At the time the invention was made, one of ordinary skill in the art would have been motivated to combine the teaching of Haddock with AAPA in order to to interconnect

heterogeneous networks that operate at different transmission speeds, therefore maximizing the throughput of the data transmission.

Regarding claim 7, AAPA fails to teach the method of claim 1, further comprising: controlling a cross point to connect the source network section to the destination network section. Haddock teaches controlling a cross point to connect the source network section to the destination network section (col. 5, lines 1-21). At the time the invention was made, one of ordinary skill in the art would have been motivated to employ a cross point to connect the source network section to the destination network section in order to interconnect heterogeneous networks that operate at different transmission speeds, therefore maximizing the throughput of the data transmission.

Regarding claim 8, the AAPA-Haddock combination teaches the method of claim 2, further comprising: controlling a first cross point to unilaterally connect the destination network section to an interface circuit; and employing the interface circuit to determine whether the destination network section is busy (AAPR, specification, page 3, 1st and 2nd paragraph; Haddock, col. 5, lines 1-21).

Regarding claim 9, the AAPA-Haddock combination the method of claim 8, further comprising: controlling a second cross point to unilaterally connect the source network section to

the destination network section if the interface circuit determines that the destination network section is not busy (AAPR, specification, page 3, 1st and 2nd paragraph; Haddock, col. 5, lines 1-21).

Regarding claim 10, AAPA teaches the method of claim 8, further comprising: signaling a collision to the source network section if the interface circuit determines that the destination network section is busy (specification, page 3, lines 6-8).

Regarding claim 11, AAPA teaches a method for communicating information between a plurality of local area network sections having different transmission speeds, the method comprising the steps of:

a) receiving a packet that is transmitted from a source terminal in a source network section having a source transmission speed to a destination terminal in a destination network section having a destination transmission speed (specification page 1, 3rd paragraph, lines 1-7 and page 2, second paragraph, lines 1-6);

c) determining whether the destination network section is not busy prior to receiving all of the packet (specification page 3, 2nd paragraph, lines 1-5); and

d) re-transmitting the received packet to the destination network section at the destination transmission speed if the destination network section is determined to be not busy (specification page 3, 2nd paragraph, lines 1-5).

However, APPA fails to teach the destination the transmission speed differing from the source transmission speed and b) determining the transmission speed for the destination terminal. Haddock teaches the destination transmission speed differing from the source transmission speed and b) determining the transmission speed for the destination terminal (col. 6, lines 14-19; col. 6, line 63 to col. 7, line 12). At the time the invention was made, one of ordinary skill in the art would have been motivated to enable the transmission speed to be different from the source transmission speed, and to determine the transmission speed for the destination in order to interconnect heterogeneous networks that operate at different transmission speeds, therefore maximizing the throughput of the data transmission.

Claim 12 is similar to claim 4, therefore is rejected under the same rationale.

Claims 13-18 are similar to claims 5-10, respectively, therefore are rejected under the same rationale.

Response to Arguments

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alina N. Boutah whose telephone number is 571-272-3908. The examiner can normally be reached on Monday-Friday (9:00 am - 5:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ANB

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JEFFREY PWU
PRIMARY EXAMINER